

KINGS COUNTY, CA

**LOCAL CEQA
IMPLEMENTATION
GUIDELINES**

Kings County Board of Supervisors

Resolution No. 03-106

Replacing :

Resolutions No. 96-048

Effective

October 22, 2003

LOCAL GUIDELINES FOR THE PREPARATION, EVALUATION AND PROCESSING OF ENVIRONMENTAL DOCUMENTS IN THE COUNTY OF KINGS, CALIFORNIA

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**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF KINGS, STATE OF CALIFORNIA**

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**IN THE MATTER OF AMENDING)
THE LOCAL GUIDELINES FOR THE)
PREPARATION, EVALUATION AND)
PROCESSING OF ENVIRONMENTAL)
DOCUMENTS FOR THE COUNTY)
OF KINGS.)**

RESOLUTION NO. 03-106

**RE: Local Guidelines for the
Implementation of CEQA**

WHEREAS, pursuant to Section 21082 of the Public Resources Code of the State of California all public agencies are required to adopt by ordinance, resolution, rule or regulations, objectives, criteria, and procedures for the evaluation of projects, and the preparation of environmental impact reports and negative declarations under the provisions of the California Environmental Quality Act (hereinafter referred to as "CEQA", and found at Public Resources Code Section 21000 et seq; all generic "Section" references are to the Public Resources Code); and

WHEREAS, Section 21082 further requires that the objectives, criteria, and procedures adopted by a public agency shall be consistent with the provisions of CEQA and with the State CEQA Guidelines adopted by the Secretary of the Resources Agency pursuant to CEQA (as found in the California Code of Regulations, Title 14, Division 6, Chapter 3, and hereinafter referred to as the "CEQA Guidelines"); and

WHEREAS, the purpose of this Resolution is to further streamline the local CEQA process by rescinding in its entirety Resolution No. 96-048, adopted June 2, 1996, entitled "Resolution Amending in its Entirety, the Established Guidelines for the Preparation, Evaluation, and Administration of Environmental Documents in Kings County, and replacing it with the local guidelines for the implementation of CEQA set forth in Attachment A.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. This action is exempt pursuant to Section 15061.(a)(3) of the *Guidelines for California Environmental Quality Act (CEQA Guidelines)*. This section states that a project is exempt from *CEQA* if the activity is covered by the general rule that *CEQA* applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to *CEQA*. The CEQA Implementation procedures are technical changes

concerning general policy for the implementation of CEQA and there is no possibility that adopting these procedures will have a significant effect on the environment..

2. Except as otherwise expressly provided herein, the provisions of CEQA and the CEQA Guidelines are hereby referred to, adopted and made part of this Resolution and a part of the Local Guidelines as hereinafter defined, with the same effect as if fully set forth herein, and all the provisions thereof shall apply to projects proposed to be carried out or given discretionary review and approval by the County of Kings or any organizational subdivision thereof.
3. Resolution No. 96-048 entitled "Resolution Amending in its Entirety, the Established Guidelines for the Preparation, Evaluation, and Administration of Environmental Documents in Kings County" is hereby rescinded in its entirety.
4. The local guidelines in Attachment A of this Resolution are hereby enacted to implement the provisions of the California Environmental Quality Act in the County of Kings (such local guidelines are herein referred to as the "Local Guidelines").

The foregoing Resolution was passed and adopted on a motion by Supervisor Oliveira, seconded by Supervisor Barba, by said Board of Supervisors at a regular meeting held on the 21st day of October, 2003, by the following vote:

AYES: Supervisors: Oliveira, Barba, Taylor, Rachford, Neves
NOES: Supervisors: None
ABSENT: Supervisors: None

/s/ Joe Neves
Chairman of the Board of Supervisors
County of Kings, State of California

WITNESS my hand and seal of said Board of Supervisors this 21st day of October, 2003.

/s/ Catherine Venturella
CATHERINE VENTURELLA
Clerk of said Board of Supervisors

ATTACHMENT A

LOCAL GUIDELINES FOR THE PREPARATION, EVALUATION AND PROCESSING OF ENVIRONMENTAL DOCUMENTS IN THE COUNTY OF KINGS, CALIFORNIA

Section 1. Purposes.

These Local Guidelines implement the provisions of the California Environmental Quality Act (CEQA) as contained in Division 13 (commencing at Section 21000) of the Public Resources Code of the State of California and the State CEQA Guidelines, as contained in Chapter 3 (commencing at Section 15000), Division 6, Title 14 of the California Code of Regulations, as adopted by the Secretary of the Resources Agency of the State of California. These Local Guidelines do not apply to ministerial projects, or to those projects which are statutorily exempt or excluded from CEQA review requirements, as set forth in Public Resources Code sections 21080 through 21080.35, or to those projects which are categorically exempt under the provisions of Article 19 (commencing at Section 15300) of the State CEQA Guidelines, or to those projects which are emergency projects under the provisions of Section 15269 of the State CEQA Guidelines.

Section 2. Definitions.

Whenever the following words or phrases are used in these Local Guidelines, unless otherwise defined, they shall have the meaning ascribed to them in this Section. These definitions are intended to clarify but not to replace or negate the definitions used in CEQA or in the State CEQA Guidelines, beginning at Section 15350, which are included herein by reference.

- a. Consultant.** An individual consultant or a consulting firm with expertise in environmental sciences and the preparation of environmental documents.
- b. County or County Department.** County or County Department means Kings County and any organizational subdivision thereof.
- c. EAC - Environmental Advisory Committee - Committee.** An informal committee appointed by the Board of Supervisors to advise County boards, commissions, committee, and departments on environmental matters, associated with their individual areas of expertise, concerning the implementation of CEQA, made up of the following members:
Kings County Health Officer,
Kings County Planning Director,

Kings County Director of Public Works,
Kings County Agricultural Commissioner and Sealer of Weights and Measures,
U.C. Cooperative Extension Services Farm Advisor, and
The Manager of the Kings Mosquito Abatement District.

d. Professional Services Agreement. An agreement between the County and a consultant which specifies the work that will be performed for the preparation of environmental documents and the cost of preparing such a document.

e. Reimbursement Agreement. An agreement between the County and the project proponent to reimburse the County for the actual cost to prepare the environmental documents for the project, including the cost of the "Agreement for Professional Services" and administrative costs incurred by County staff in processing the project.

f. Indemnity Agreement. An agreement between the County and the project proponent to reimburse the County's actual cost associated with challenges to the environmental documents prepared by, or under the direction of, the County for the project

Section 3. Kings County Environmental Advisory Committee (EAC).

a. The Kings County Environmental Advisory Committee (EAC or Committee) is hereby created and replaces the former Environmental Review Committee (ERC). The EAC shall consist of the following six members:

Kings County Health Officer,
Kings County Planning Director,
Kings County Director of Public Works,
Kings County Agricultural Commissioner and Sealer of Weights and Measures,
U.C. Cooperative Extension Services Farm Advisor, and
The Manager of the Kings Mosquito Abatement District.

b. The EAC shall be advisory only and will not hold public meetings. Each EAC member may provide written comments determined by the member to appropriately reflect that member's general and specific environmental concerns related to his or her area of expertise.

c. **Duties of the Members of the EAC:** The principal duty of the members of the EAC shall be to review initial studies which are submitted by County Departments during the 20-day public review period for proposed negative declarations and the 30-day or 45-day public review period for draft EIRs required by CEQA Section 21091. Committee members may make any of the following recommendations:

- 1) Recommend approval of the initial study as a negative declaration, if, based upon the initial study, the Committee member determines that the project will not have a significant effect on the environment. Failure to notify the Planning Department within the specified review period, indicates acceptance of the initial study as submitted; or
 - 2) In writing, request specific changes to the draft initial study, and with those specified changes recommend that the decision maker adopt a negative declaration; or
 - 3) In writing, recommend the preparation of an environmental impact report if, based upon the initial study, the Committee member believes that the project will have a significant adverse effect on the environment. The committee member shall specify, in writing, what effects on the environment he or she believes will be significant and why.
- d. Each EAC member shall also be responsible for recommending to the Board of Supervisors' requests for additions to, or deletions from, the list of classes or projects that are exempt from environmental review pursuant to Sections 21084 through 21086, inclusive, of CEQA.
- e. Limitations of Review by Environmental Advisory Committee: The review of negative declarations and environmental impact reports by the members of the EAC shall be advisory in nature and shall be limited to a determination of the objectivity and adequacy of the environmental documents submitted to its members, and shall ensure that the decision maker has sufficient information about the possible impacts to the environment, in the judgment of the committee member, that the project may cause. Committee members shall not consider the value of the project itself or whether the project should be approved or denied. Such determination is solely the responsibility of the decision maker for the project.

Section 4. Ministerial Projects and Actions in Kings County

Section 21080(b)(1) of CEQA provides that the Act does not apply to ministerial projects proposed to be carried out or approved by public agencies. Section 15268 of the State CEQA Guidelines states that the determination of what is "ministerial" can most appropriately be made by the public agency involved, and that each public agency should identify or itemize those projects and actions which are deemed ministerial.

The following is a non-exclusive list of types of projects that are ministerial and therefore

exempt from CEQA review requirements:

a. Sheriff-Animal Control

1. Dog Licenses

b. Agricultural Commissioner-Sealer

1. Agricultural crop moving permits

c. Building Department

1. Plan check reviews
2. Building Permits (including Electrical, Plumbing, and Mechanical Permits)
3. Demolition Permits
4. Mobile Home Installation Permits
5. Relocation Inspections and Permits
6. Utility Service Connections and Disconnections
7. Compliance Inspections and Reports
8. Water well permits

d. County Clerk

1. Marriage Licenses

e. Fire Department

1. Fireworks Sales Permits
2. Open Air Burn Permits
3. Weed Abatement Program

f. Health Department

1. Food Vendor's Permits
2. Water Supply Permits (small public water systems and state small water systems)
3. Underground Storage Tank Permits, Authority to Construct, and Authority to Abandon
4. Hazardous Materials Business Plan and Inventory approvals
5. Risk Management and Prevention Program approvals
6. Medical Waste Management Registrations
7. Limited Quantity Medical Waste Hauler Exemptions
8. Registration of businesses engaged in the cleaning of septic tanks, chemical toilets, cesspools, and seepage pits
9. Inspections in connection with the enforcement of environmental health laws
10. Plan approval for construction, modification, or remodeling of food facilities, public swimming pools and spas, on site sewage disposal systems, small public water systems, state small water system and/or underground storage tanks (including piping)

11. Certification of on site sewage disposal systems and/or individual water systems for lenders including VA and FHA
12. Tattoo Parlor Permits

g. Planning Department

1. Site Plan Reviews conducted by the Zoning Administrator under the provisions of Article 21 of the Kings County Zoning Ordinance.
2. Land divisions exempted by Sections 21-83(b) and 21-92(a) of the Land Subdivision Ordinance
3. Certificates of Compliance
4. Lot Line Adjustments
5. Annual Fire Arms Dealers Reviews
6. Code enforcement investigations and orders for abatement of nuisances and violations
7. Abandoned Vehicle Abatement Program investigations and orders for abatement

h. Public Works Department

1. Encroachment Permits
2. Moving permits
3. Traffic control activities

i. Tax Collector

1. Dance, explosive, gun, and solicitors licenses
2. Rubbish disposal operator's license

A notice of exemption shall be filed for all projects determined to be statutorily, categorically or otherwise exempt from CEQA environmental review.

Section 5. Initial Study.

The initial study process shall be conducted according to the procedures outlined in the State CEQA Guidelines, Article 5, beginning with Section 15060.

The County department initiating a public project or receiving an application for discretionary approval of a private project may prepare its own initial study, or submit a description of the project to the Planning Department for environmental review. If a project description is submitted to the Planning Department, the Planning Department shall conduct an initial study pursuant to Section 15063 of the State CEQA Guidelines and these Local Guidelines to determine if the project may have a significant effect on the environment. The County department or the applicant shall provide any additional information the Planning Department may require in preparing the initial study. Failure to provide the requested information in a timely manner may cause the application not to

be certified as complete, and delay the development of the required environmental documents.

Section 6. Time Limits for the Certification of Environmental Documents.

Pursuant to Section 21151.5 of CEQA and Article 8 of the State CEQA Guidelines, the County of Kings hereby establishes one year as the time limit for the completion and certification of environmental impact reports, and 105 days for the completion of negative declarations, for projects which require environmental review. The commencement and running of these time periods shall be governed by CEQA and the CEQA Guidelines.

Extensions of Time for EIR's: Extensions of time for the processing of EIR's may be approved once, for an additional period not to exceed 90 days, by the Lead Agency provided that it finds that compelling circumstances justify the extension of time and that the project applicant consents to the specified extension, pursuant to Government Code Section 65957 and State CEQA Guidelines Section 15108. Extensions exceeding 90 days may be approved where the law expressly otherwise provides for such additional extensions.

Section 7. Deposit and Accounting on Private Project.

All applications for the discretionary review of private projects by the County shall include a fee, subject to Section 21089 of CEQA, in an amount set by Ordinance of the Kings County Board of Supervisors, at the time the project application is filed with the Planning Department to cover the cost of preparation of the initial study.

If it is determined that an EIR should be prepared, the applicant shall be required to pay the cost of preparing the EIR (see Section 2.4 through 2.6 above). The Planning Department shall ensure the EIR is prepared according to the procedures described in Article 7 (Section 15084 through 15097) of the CEQA Guidelines.

The Planning Department may prepare the required documents, with Board of Supervisors approval, by engaging the services of a consultant with expertise in preparing environmental documents, based on a detailed work plan approved by the Planning Department staff, and made a part of the "Agreement for Professional Services", shall be submitted to the project applicant who shall enter into a "Reimbursement Agreement" with the County and deposit in an interest bearing account in the County Treasury the amount of the cost shown in the detailed work plan (agreement), plus an administrative fee determined by the Planning Director to be necessary to defray the cost of administering the agreement with the consultant and the staff time necessary to process the project to its completion.

As an alternative the applicant may submit detailed information in any form, including the form of a draft EIR. The Planning Department, with Board of Supervisors approval, may engage at the expense of the applicant the services of a consultant with expertise in preparing environmental documents, to advise the County on the adequacy of the information submitted, including, but not limited to, a draft EIR, if any is submitted. Reimbursement for the costs of the County's consultant shall be the same as described above.

An accurate accounting shall be kept by the Planning Department of the actual cost of preparing and administering the EIR and shall be made available to the applicant at his request. Upon the completion of the project, after the decision maker's final action, the Planning Department shall refund any money remaining in the account, including interest that was earned and not used, to the applicant.

Section 8. Action by the Decision-Maker.

(a) When a proposed negative declaration has been forwarded to the decision-maker, the decision-maker shall, prior to making a decision on the project, either approve the negative declaration based upon a finding that the project will not have a significant effect on the environment, or shall refer the matter to the Planning Department for preparation of an EIR, or mitigated negative declaration, based upon a finding that the project may have a significant effect on the environment. If the matter is referred for additional review, the decision maker shall take no further action on the project until a final EIR, or mitigated negative declaration, has been prepared as required by law.

(b) When a final EIR has been prepared and processed according to Article 7, beginning with Section 15080 of the State CEQA Guidelines, the decision-maker shall, prior to making a decision on the project, certify the final EIR has been completed in compliance with CEQA and the State CEQA Guidelines, and shall review and consider the information contained in the final EIR. Based upon information contained in the final EIR, when the decision-maker finds that the project will have a significant effect on the environment, the decision-maker shall state in writing reasons to support its decision to approve or carry out the project based upon information contained in the final EIR or other information contained in the record.

Section 9. Mitigation Reporting and Monitoring Program.

When approving projects for which mitigation measures are required and adopted, the decision maker shall adopt as part of the approval action a "Mitigation Reporting and Monitoring Program", pursuant to Section 21081.6 of CEQA and Section 15097 of the State CEQA Guidelines, for the changes to the project. The "Mitigation Reporting and

Monitoring Program", then becomes a condition of approval to mitigate or avoid significant effects on the environment. Failure of the project applicant to comply with the reporting requirements and mitigation measures are grounds for permit revocation or correcting the effects on the environment at the project applicant's cost.

The decision maker may require the applicant to deposit an amount of money estimated to offset the cost of monitoring the development and operation of the project into an interest bearing account in the Kings County Treasury. Upon completion of the monitoring program any unused money in the account shall be returned to the applicant.

Section 10. Notice of Determination.

After making a decision on a project, the decision-maker shall file a Notice of Determination, pursuant to Section 21080.4 of CEQA and 15094 of the State CEQA Guidelines. Such notice shall include a brief description of the project, the decision of the decision-maker to approve (carry out) or disapprove (not carry out) the project, the determination of the decision-maker whether the project will or will not have a significant effect on the environment, and a statement whether an environmental impact report has been prepared. The Planning Department shall ensure that such notices are filed.

Section 11. Duties of the County Clerk.

All notices submitted to the County Clerk pursuant to CEQA shall posted by the County Clerk at the place designated by the County Clerk for the posting of all official notices. Members of the general public requesting copies of said notices shall be charged for the actual cost of reproducing that copy. The County Clerk shall prepare and maintain a list of the names and mailing addresses of all persons requesting review of a particular notice.

Section 12. Severability.

If any provision of these Local Guidelines or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of these Local Guidelines which can be given effect without the invalid provision of application thereof, and to this end the provisions of these Local Guidelines are severable.

END OF GUIDELINES

